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Attorneys for Defendants
CITY AND COUNTY OF HONOLULU
& HONOLULU POLICE DEPARTMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

RUPERT BROWNE

Plaintiff,

vs.

CITY AND COUNTY OF HONOLULU,
HONOLULU POLICE DEPARTMENT;
SUSAN BALLARD, in Her Official and
Individual Capacities; SAMUEL L.
JACSO, in His Official and Individual
Capacities; and DOE OFFICERS 1
through 20, Inclusive;

Defendants.

CIVIL NO.

DEFENDANT-PETITIONERS CITY
AND COUNTY OF HONOLULU
AND HONOLULU POLICE
DEPARTMENT'S NOTICE OF
REMOVAL OF CIVIL ACTION
UNDER 28 U.S.C. § 1441(a);
DECLARATION OF COUNSEL;
EXHIBITS "A & B"; CERTIFICATE
OF SERVICE

Trial Date: None.

DEFENDANTS CITY AND COUNTY OF HONOLULU AND
HONOLULU POLICE DEPARTMENT'S NOTICE
OF REMOVAL OF CIVIL ACTION UNDER 28 U.S.C. § 1441(a)

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendants-Petitioners CITY AND COUNTY OF HONOLULU and the HONOLULU POLICE DEPARTMENT (collectively the City”), by and through its attorneys, Paul S. Aoki, Acting Corporation Counsel, and Tracy S. Fukui, Deputy Corporation Counsel, and in accordance with 28 U.S.C. § 1441(a) and (c) hereby submits this Notice of Removal of the instant case from the Circuit Court of the First Circuit, State of Hawai‘i, to this Honorable Court. In support of this notice, the City states as follows:

1. August 20, 2019, Plaintiff filed a Verified Complaint/Summons in an action entitled, *Rupert Browne v. City and County of Honolulu; Honolulu Police Department; Susan Ballard; in her Official and Individual Capacity; Samuel L. Jasco, in his Official and Individual Capacity* under Civil No. 19-1-1321-08 DEO, in the Circuit Court of the First Circuit, State of Hawai‘i (“Complaint”). A true and accurate copy of the Complaint is attached hereto as Exhibit “A”.

2. The Complaint alleges that “Defendants” violated the civil rights of Plaintiff RUPERTE BROWN (“Plaintiff”) by unlawfully entering and searching his residence, seizing his dog, and detaining Plaintiff. *See* Ex. “A”, p. 2, ¶¶ 6-8. Plaintiff further alleges Defendants engaged in such acts based upon his race. *See* Ex. “A”, pp. 6-7, ¶33.

3. Specifically, the Complaint alleges Defendants violated Plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution," and that such violations are actionable pursuant to 42 U.S.C. §§ 1981 and 1983. *See Id.* at p. 6-7, ¶¶ 32, 33, and 34.

4. The above-referenced action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, as the Complaint against the City includes claims or rights arising under the Constitution and laws of the United States, and is one which the City is entitled to remove to this Court pursuant to 28 U.S.C. Section 1441(a) & (c).¹

5. Pursuant to 28 U.S.C. § 1446, this Notice is being timely filed within thirty (30) days after the City received a copy of the original Complaint filed by Plaintiff. Said receipt by the City took place on August 22, 2019. *See Declaration of Counsel and Exhibit A.*

6. A Notice of Filing of Notice of Removal of Civil Action is being contemporaneously filed in the Circuit of the First Circuit, State of Hawai'i.

7. Based on the filings in this case thus far, as listed in the court docket, the City is the only Defendant that been served in this case. *See Exhibit "B".*

8. By filing this Notice of Removal and removing this action to this Court, the City does not waive or compromise any defense, argument or claim.

¹ Plaintiff concedes the applicability of 28 U.S.C. §1331 in his Complaint. *See Ex. "A", p. 3, ¶ 13.*

WHEREFORE, the City prays that the above referenced state court action now pending against it in the Circuit Court of the First Circuit, State of Hawai‘i, be removed therefrom to this Court.

DATED: Honolulu, Hawai‘i, August 27, 2019.

PAUL S. AOKI
Acting Corporation Counsel

By /s/ Tracy S. Fukui
TRACY S. FUKUI
Deputy Corporation Counsel

Attorney for Defendants
CITY AND COUNTY OF HONOLULU
& HONOLULU POLICE DEPARTMENT